

## MSC CASES TO BE ARGUED IN THE 2019-2020 TERM

### **CASES TO BE ARGUED ON OCTOBER 2 AND 3:**

#### **156189                      People v Travis Travon Sammons** (Argument on the Application)

*Nature of Case:* Evidence, show-up identification procedure.

*Issue(s):* “[W]hether (1) the show-up identification procedure was impermissibly suggestive...; (2) if so, whether the identification was nonetheless sufficiently reliable so that it was properly admitted...; and (3) if improperly admitted, whether it is more probable than not that the erroneous admission of the identification through the detective’s testimony affected the outcome of the trial.”

*Invited Amici:* Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan. Interested persons or groups may request permission.

#### **156622                      WA Foote Memorial Hosp v MI Assigned Claims Plan** (Argument on the Application)

*Nature of Case:* No-fault auto insurance, PIP benefits, cause of action by healthcare provider.

*Issue(s):* “[W]hether: (1) this Court’s decision in *Covenant Medical Center, Inc v State Farm Mut Auto Ins Co*, 500 Mich 191 (2017), should be applied to this case; (2) the Court of Appeals correctly concluded that this Court’s decision in *Pohutski v City of Allen Park*, 465 Mich 675, 696 (2002), has been “effectively repudiated” in the context of judicial decisions of statutory interpretation...; and (3) if *Pohutski* has not been effectively repudiated, whether the *Pohutski* framework should have been applied in *Spectrum*.

*Invited Amici:* Interested persons or groups may request permission.

*Special Note:* This case is to be argued at the same session as MSC No. 157951, *Shah, MD, PC v State Farm Mut Automobile Ins Co*.

#### **157522                      Honigman Miller Schwartz & Cohn v City of Detroit** (Leave Granted)

*Nature of Case:* City income tax.

*Issue(s):* “[W]hether the Court of Appeals erred in its construction of the phrase “services rendered within the city” in the Uniform City Income Tax Ordinance, MCL 141.623.”

*Invited Amici:* City of Grand Rapids, Taxation Section of the SBM. Interested persons or groups may request permission.

#### **157688                      People v Tiffany Lynn Reichard** (Argument on the Application)

*Nature of Case:* Felony murder, duress as a defense.

*Issue(s):* “[W]hether the Court of Appeals correctly determined that duress is not an available defense to the charge of felony murder under any circumstances.”

*Invited Amici:* Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan. Interested persons or groups may request permission.

#### **157705                      Deborah Lynn Foster v Ray James Foster** (Leave Granted)

*Nature of Case:* Contempt, violation of property settlement provision of consent divorce judgment.

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*Issue(s)*: "(1) whether the principles set forth in *Howell v Howell*, \_\_\_ US \_\_; 137 S Ct 1400; 197 L Ed 2d 781 (2017), apply to combat-related special compensation (CRSC), 10 USC 1413a; (2) if so, whether *Megee v Carmine*, 290 Mich App 551 (2010), remains good law in light of *Howell*; and (3) whether the Court of Appeals was correct in upholding the Dickinson Circuit Court's November 6, 2014 contempt order against the defendant."

*Invited Amici*: Operation Firing for Effect, Forgotten Warriors Project, Inc., Veterans of Foreign Wars Insurance Institute of Michigan. Interested persons or groups may request permission.

### **157951                      Jawad A. Shah, MD, PC v State Farm Mut Automobile Ins Co** (Argument on the Application)

*Nature of Case*: No-fault auto insurance, PIP benefits, anti-assignment clause.

*Issue(s)*: "[W]hether the anti-assignment clause in the defendant's insurance policy precludes the defendant's insured from assigning his right to recover no-fault personal protection insurance benefits to the plaintiff healthcare providers."

*Invited Amici*: Insurance Alliance of Michigan, Auto Club Insurance Association. Interested persons or groups may request permission.

*Special Note*: This case is to be argued at the same session as MSC No. 156622, *WA Foote Memorial Hosp v MI Assigned Claims Plan*.

### **158102                      People v Laricca Seminta Mathews** (Argument on the Application)

*Nature of Case*: *Miranda* warnings.

*Issue(s)*: "[W]hether the warnings provided to the defendant prior to custodial interrogation "reasonably convey[ed],"... to her the "right to consult with a lawyer and to have the lawyer with [her] during interrogation," as required by *Miranda v Arizona*, 384 US 436, 471 (1966)."

*Invited Amici*: Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan. Interested persons or groups may request permission.

### **158296, 158298              People v Terrance Anthony Furline, Alvin Bernard Jenkins, Sr.** (Argument on the Application)

*Nature of Case*: Criminal procedure, separate trials of co-defendants.

*Issue(s)*: "[W]hether the Court of Appeals clearly erred in its application of the principles of *People v Hana*, 447 Mich 325 (1994), to the defendants' motions for separate trials."

*Invited Amici*: None.

### **158311                      Christie DeRuiter v Township of Byron** (Argument on the Application)

*Nature of Case*: Statutory preemption of zoning ordinance, MI Medical Marihuana Act.

*Issue(s)*: "[W]hether the defendant's zoning ordinance pertaining to the location of registered medical marijuana caregivers is preempted by the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*"

*Invited Amici*: Michigan Townships Association, Michigan Municipal League, Government Law Section of the SBM. Interested persons or groups may request permission.

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### **158854**                      **In re I.M. Long, Minor** (Argument on the Application)

*Nature of Case:* Termination of parental rights, adjudicative proceeding, exercise of jurisdiction.

*Issue(s):* "(1) whether the Court of Appeals clearly erred in reversing the trial court's decision to exercise jurisdiction over the minor child pursuant to MCL 712A.2(b)(2), where the child was living with a guardian and there was no evidence that the guardian's home was unfit, yet there was evidence that the respondent-father is incarcerated and had a history of criminal conduct; (2) whether the Court of Appeals clearly erred in reversing the trial court's additional decision to exercise jurisdiction over the minor child pursuant to MCL 712A.2(b)(6), based on the respondent-father's conduct in the two years preceding the filing of the petition when he was a putative, not legal, father; and (3) whether the trial court's reliance on *In re LE*, 278 Mich App 1 (2008), was misplaced."

*Invited Amici:* Children's Law and Family Law Sections of the SBM, UDM Juvenile Appellate Practice Clinic, University of Michigan Law School Child Advocacy Law Clinic. Interested persons or groups may request permission.

### **CASE TO BE ARGUED ON OCTOBER 16:**

### **158005**                      **Jeffrey S. Maniaci v Thomas Diroff** (Argument on the Application)

*Nature of Case:* Property, scope of easement.

*Issue(s):* "[W]hether [the plaintiff's] proposed alterations to Parcel B fall within the scope of the easement created by the 2015 consent judgment.'

*Invited Amici:* None.

*Special Note:* This case will be argued as part of the Court Community Connections Program in Traverse City.

### **CASES TO BE ARGUED ON NOVEMBER 6 AND 7:**

### **156849**                      **Rafaelli, LLC v Oakland County** (Leave Granted)

*Nature of Case:* Property taxation, delinquency, foreclosure.

*Issue(s):* "[W]hether the defendants violated either the Takings Clause of the United States Constitution, US Const, Am V, or the Takings Clause of the Michigan Constitution, Const 1963, art 10, § 2, or both, by retaining proceeds from the sale of tax foreclosed property that exceeded the amount of the tax delinquency in accordance with MCL 211.78m(8)(h)."

*Invited Amici:* Interested persons or groups may request permission.

### **157210**                      **People v Dennis Keith Towne** (Argument on the Application)

*Nature of Case:* Search and seizure, knock and announce.

*Issue(s):* "(1) whether the police exceeded the proper scope of a knock and talk when they approached and secured the defendant's home at night while attempting to execute an arrest warrant for the defendant's son, who lived elsewhere...; (2) whether the police had sufficient

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grounds to believe that the subject of the arrest warrant was inside the defendant's home; (3) the appropriate standard to be used by a reviewing court to determine whether the police are permitted to enter a third-party's home or curtilage to execute an arrest warrant...; (4) if the proper scope of a knock and talk was not exceeded in this case, whether the plain view or exigent circumstances exceptions to the warrant requirement permitted the police to forcibly enter the defendant's home based on an officer's perceptions while posted at the rear of the home in the curtilage or in an "open field"; and (5) whether the exclusionary rule should apply under these circumstances."

*Invited Amici:* Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan. Interested persons or groups may request permission.

### **158013                      People v Xun Wang** (Argument on the Application)

*Nature of Case:* Evidence, Medicaid fraud, statutory exception and sufficiency.

*Issue(s):* "(1) whether the statutory exception in MCL 333.16294 is an element of the offense for which the prosecutor has the burden of proof...; (2) if the statutory exception is an element of the offense, whether the Court of Appeals erred in holding that the evidence was sufficient to sustain the defendant's conviction under MCL 333.16294 and specifically, whether the Court of Appeals erred in concluding that the defendant's actions were consistent with the practice of medicine and therefore could not be delegated to her under MCL 333.16215; and (3) if the statutory exception is not an element of the offense, whether defense counsel was ineffective for failing to raise a delegation defense and bring the relevant statutory provisions to the trial court's attention. In addition, the appellant shall address whether the evidence was sufficient to sustain the defendant's convictions under MCL 400.607(1), and specifically whether the evidence was sufficient to show that the defendant was in possession of facts under which she was aware or should have been aware that her conduct was substantially certain to cause the payment of a Medicaid benefit. See MCL 400.602(f)."

*Invited Amici:* Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan, Michigan Health & Hospital Association, Michigan Osteopathic Association, Michigan State Medical Society. Interested persons or groups may request permission.

### **158065                      People v Kelly Christopher Warren** (Argument on the Application)

*Nature of Case:* Plea taking, advising of possible consecutive sentences.

*Issue(s):* "[W]hether, when a defendant's plea of guilty or no contest will subject him to the court's discretion to impose consecutive sentences, the court must advise the defendant of that possibility before the court may accept the plea."

*Invited Amici:* Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan. Interested persons or groups may request permission.

### **158302                      Meemic Ins Co v Louise M Fortson** (Leave Granted)

*Nature of Case:* No-fault auto insurance, first-party benefits, fraud of attendant caregiver, innocent third-party.

*Issue(s):* Whether the innocent third-party rule exempts the injured party from the "concealment or fraud" provision of the policy, whether *Bazzi v Sentinel Ins Co*, 315 Mich 763 (2016), is limited to situations involving fraud in the procurement of a policy.

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*Invited Amici:* Interested persons or groups may request permission.

### **158305-6, 158307-8     In re Reliability Plans of Electric Utilities for 2017-2021** (Argument on the Application)

*Nature of Case:* Public Service Commission, scope of authority.

*Issue(s):* "[W]hether the Court of Appeals erred in holding that 2016 PA 341 does not authorize the Michigan Public Service Commission to impose a local clearing requirement on individual alternative electric suppliers."

*Invited Amici:* Michigan Chamber of Commerce, Midcontinent Independent System Operator, DTE Electric Company. Interested persons or groups may request permission

### **158333, 158335     Tomra of North America, Inc v Dep't of Treasury** (Leave Granted)

*Nature of Case:* Sales tax liability, industrial processing exemption, beverage container recycling machines.

*Issue(s):* Whether the recycling machines qualify for the industrial processing exemption when both the Sales Tax Act and the Use Tax Act define "industrial processing" as a process that "begins when tangible personal property begins movement from raw material storage to begin industrial processing...." MCL 205.54t(7)(a); MCL 205.94o(7)(a).

*Invited Amici:* Interested persons or groups may request permission.

### **158486     People v John David Vanderpool** (Argument on the Application)

*Nature of Case:* Sentencing, extension of probationary term

*Issue(s):* "(1) whether the Tuscola Circuit Court had jurisdiction to extend the defendant's probationary term in September 2015; and (2) whether the extension of the probationary term without notice or a hearing violated the defendant's due process rights."

*Invited Amici:* Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan. Interested persons or groups may request permission.

### **158563     Ryan Menard v Terry R Imig** (Argument on the Application)

*Nature of Case:* Governmental immunity, highway exception, narrow and pot-holed road; negligence, cause-in-fact.

*Issue(s):* "(1) whether the Court of Appeals erred in its determination of cause-in-fact; and (2) whether the narrowing of the roadway combined with the oncoming driver's use of high-beam headlights, or any other cause-in-fact, was a proximate cause of the accident."

*Invited Amici:* None.

### **158789     David R Sanders v Tumbleweed Saloon, Inc** (Argument on the Application)

*Nature of Case:* Attorney-client relationship.

*Issue(s):* "[W]hether the Court of Appeals erred when it concluded that there was a genuine question of fact as to whether there was an attorney-client relationship between the plaintiffs and the attorney who sent the initial letter on their behalf to one of the defendants."

*Invited Amici:* None.

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### **CASES YET TO BE SCHEDULED FOR ARGUMENT:**

#### **148981                      People v Paul J. Betts, Jr.** (Leave Granted)

*Nature of Case:* Sex Offenders Registration Act, punishment, ex post facto.

*Issue(s):* "(1) whether the requirements of the Sex Offenders Registration Act (SORA), MCL 28.721 et seq., taken as a whole, amount to "punishment" for purposes of the Ex Post Facto Clauses of the Michigan and United States Constitutions...; (2) if SORA, as a whole, constitutes punishment, whether it became punitive only upon the enactment of a certain provision or group of provisions added after the initial version of SORA was enacted; (3) if SORA only became punitive after a particular enactment, whether a resulting ex post facto violation would be remedied by applying the version of SORA in effect before it transformed into a punishment or whether a different remedy applies...; (4) if one or more discrete provisions of SORA, or groups of provisions, are found to be ex post facto punishments, whether the remaining provisions can be given effect retroactively without applying the ex post facto provisions...; (5) what consequences would arise if the remaining provisions could not be given retroactive effect; and (6) whether the answers to these questions require the reversal of the defendant's conviction pursuant to MCL 28.729 for failure to register under SORA."

*Invited Amici:* Attorney General, Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan, American Civil Liberties Union of Michigan. Interested persons or groups may request permission.

#### **154773                      People v Ihab Masalmani** (Leave Granted)

*Nature of Case:* Juvenile sentencing, life without parole.

*Issue(s):* "(1) which party, if any, bears the burden of proof of showing that a *Miller* factor does or does not suggest a LWOP sentence; (2) whether the sentencing court gave proper consideration to the defendant's "chronological age and its hallmark features," ... by focusing on his proximity to the bright line age of 18 rather than his individual characteristics; and (3) whether the court properly considered the defendant's family and home environment, which the court characterized as 'terrible,' and the lack of available treatment programs in the Department of Corrections as weighing against his potential for rehabilitation."

*Invited Amici:* Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan. Interested persons or groups may request permission.

#### **157335-7, 157340-2 Melissa Mays v Governor** (Leave Granted)

*Nature of Case:* Class action suits alleging constitutional torts arising out of the Flint Water Crisis.

*Issue(s):* "(1) when the plaintiffs' cause of action accrued...; (2) whether the Court of Appeals erred in holding that the fraudulent concealment exception in MCL 600.5855 applies to the statutory notice period in MCL 600.6431(3); (3) whether the Court of Appeals erred in holding that under the Court of Claims Act, MCL 600.6401 et seq., there is a "harsh and unreasonable consequences" exception to the notice requirement of MCL 600.6431(3) when a constitutional tort is alleged...; (4) if there is such an exception, whether it is met by the facts

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alleged in the plaintiffs' amended complaint; (5) whether the Court of Appeals erred in recognizing a constitutional tort for violation of bodily integrity under Const 1963, art 1, § 17, and, if not, whether the plaintiffs properly alleged such a violation, and whether a damages remedy is available for such a violation...; (6) for purposes of the plaintiffs' inverse condemnation claim, whether the plaintiffs have alleged direct action by defendants against the plaintiffs' property, and a special or unique injury...; and (7) for purposes of the plaintiffs' inverse condemnation claim, the manner in which the class of similarly situated persons should be defined.

*Invited Amici:* Interested persons or groups may request permission.

### **157812**                      **People v Arthur Larone Jemison** (Leave Granted)

*Nature of Case:* Confrontation clause, expert witness testimony via two-way interactive video.

*Issue(s):* "[W]hether permitting an expert witness to testify by two-way interactive video, over the defendant's objection, denied the defendant his constitutional right to confront witnesses and, if so, whether this error was harmless."

*Invited Amici:* Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan, Richard D. Friedman. Interested persons or groups may request permission.

### **157936**                      **People v Jamal Devonta Bennett** (Argument on the Application)

*Nature of Case:* Evidence, admission of rap videos and gang-affiliation testimony.

*Issue(s):* "[W]hether the Court of Appeals erred in concluding: (1) that the preserved error in admitting the rap videos was not outcome determinative; (2) that the unpreserved error in admitting the gang-affiliation testimony was not plain error; and (3) that the erroneously admitted evidence, in conjunction with the prosecutor's argument in closing that this evidence showed the "mentality" of defendant and his friends and the 'lifestyle' they lived, did not constitute impermissible character evidence under MRE 404(a) and *People v Bynum*, 496 Mich 610 (2014)."

*Invited Amici:* None.

### **158068**                      **People v Tykeith L. Turner** (Leave Granted)

*Nature of Case:* Sentencing, effect of required resentencing for one count on the sentences for other counts.

*Issue(s):* "(1) whether a legal misconception concerning a defendant's sentence on one count renders the sentences for other counts arising out of the same transaction invalid; (2) whether the requirements for a motion for relief from judgment must be satisfied before a defendant may be resentenced on other counts where a change in the law requires resentencing for one count, or whether a trial court may exercise its discretion to resentence on other counts where resentencing is required for one count; and (3) if the latter, what parameters apply to the exercise of the court's discretion when deciding whether to resentence on other counts."

*Invited Amici:* Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan. Interested persons or groups may request permission.

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### **158141 Kaitlin Hahn v Geico Indemnity Co** (Argument on the Application)

*Nature of Case:* No-fault, contract reformation.

*Issue(s):* “[W]hether: (1) MCL 500.3012 permits the reformation of a non-Michigan insurance contract to comply with the requirements of the Michigan no-fault act, MCL 500.3101 *et seq*; and (2) *Farm Bureau Ins Co v Allstate Ins Co*, 233 Mich App 38 (1998), was correctly decided, and if not, whether it should be overruled.”

*Invited Amici:* Insurance Alliance of MI, Coalition Protecting Auto No-Fault. Interested persons or groups may request permission.

### **158150-1 Progress Michigan v Attorney General** (Leave Granted)

*Nature of Case:* Freedom of Information Act.

*Issue(s):* “(1) whether there is a sovereign or governmental immunity defense to the failure to disclose public records pursuant to the Freedom of Information Act (FOIA), MCL 15.231 *et seq*; (2) if so, whether that immunity is waived by the FOIA; (3) whether the notice and verification requirements of the Court of Claims Act, see MCL 600.6431(1), are applicable to a FOIA appeal; (4) if so, whether the Court of Appeals erred when it held that the plaintiff’s failure to follow the verification requirement in its original complaint, which was filed within one year after the FOIA claim accrued, MCL 600.6431(1), rendered the complaint “invalid from its inception” and incapable of amendment; and (5) whether the Court of Appeals erred when it held that the verified amended complaint, also filed within the one-year period, could not ‘relate back’ to the date of the original complaint for purposes of compliance with the 180-day limitations period of the FOIA.”

*Invited Amici:* None.

### **158240 Susan Bisio v City of the Village of Clarkston** (Leave Granted)

*Nature of Case:* FOIA, public record and agent of city.

*Issue(s):* “(1) whether the Court of Appeals erred in holding that the documents sought by the plaintiff were not within the definition of “public record” in § 2(i) of the Freedom of Information Act (FOIA), MCL 15.231 *et seq*; and (2) whether the defendant city’s charter-appointed attorney was an agent of the city such that his correspondence with third parties, which were never shared with the city or in the city’s possession, were public records subject to the FOIA, see *Breighner v Michigan High Sch Athletic Ass’n*, 471 Mich 217, 233 ns 6 & 7 (2004); *Hoffman v Bay City School Dist*, 137 Mich App 333 (1984).”

*Invited Amici:* Michigan Press Association, Detroit Free Press, Michigan Municipal League, Michigan Townships Association. Interested persons or groups may request permission

### **158300 Keith Smith v City of Detroit** (Argument on the Application)

*Nature of Case:* Tort, premises liability vs ordinary negligence.

*Issue(s):* “[W]hether the defendant cross-appellee maintained possession and control over the sidewalk such that plaintiff’s claim sounded in premises liability rather than ordinary negligence.”

*Invited Amici:* Michigan Association for Justice, Michigan Defense Trial Counsel, Inc., Negligence Section of SBM. Interested persons or groups may request permission



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### **158408 In re Robert E Whitton Revocable Trust** (Argument on the Application)

*Nature of Case:* Declaratory judgment, authority of probate court to enter

*Issue(s):* "[W]hether the Oakland Probate Court had jurisdiction to entertain the request for declaratory relief in light of *MacLeod v MacLeod*, 365 Mich 25 (1961)."

*Invited Amici:* Probate and Estate Planning Section of the SBM. Interested persons or groups may request permission.

### **158716 People v Gary Gilmore** (Argument on the Application)

*Nature of Case:* Criminal, evidentiary hearing on restitution amount.

*Issue(s):* "(1) whether the defendant waived the question of his entitlement to an evidentiary hearing regarding the amount of restitution...; and if not, (2) whether the Wayne Circuit Court erred in denying the defendant such a hearing."

*Invited Amici:* None.

### **158751 Council of Orgs & Others For Education About Parochiaid v Michigan** (Leave Granted)

*Nature of Case:* Use of public funds to reimburse private schools for state-mandated programs.

*Issue(s):* "[W]hether MCL 388.1752b violates Const 1963, art 8, § 2."

*Invited Amici:* Public Funds Public Schools. Interested persons or groups may request permission

### **158903 Frank Anthony Scola v JP Morgan Chase Bank Nat'l Ass'n** (Argument on the Application)

*Nature of Case:* Tort, premises liability vs ordinary negligence.

*Issue(s):* "[W]hether the Court of Appeals erred in holding that the appellant's claim sounded in premises liability rather than ordinary negligence."

*Invited Amici:* Michigan Association for Justice, Michigan Defense Trial Counsel, Inc., Negligence Section of SBM. Interested persons or groups may request permission.

### **159205 Caleb Griffin v Swartz Ambulance Service** (Argument on the Application)

*Nature of Case:* Medical malpractice or ordinary negligence, operation of ambulance.

*Issue(s):* "[W]hether the operation of the ambulance in this case by the appellee's employee constitutes an "act[] . . . in the treatment of a patient" within the meaning of MCL 333.20965(1)."

*Invited Amici:* Michigan Association for Justice, Michigan Defense Trial Counsel, Inc., Negligence Section of SBM. Interested persons or groups may request permission.

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### **159492-3**                    **Samantha Lichon v Michael Morse; Jordan Smits v Michael Morse** (Leave Granted)

*Nature of Case:* Arbitration agreement, employment, alleged sexual assault.

*Among Other Issues to be Brief:* "[W]hether the claims set forth in the plaintiffs' complaints are subject to arbitration."

*Invited Amici:* Interested persons or groups may request permission.

### **159516**                    **People of MI v Treshaun Lee Terrance** (Argument on the Application)

*Nature of Case:* Double jeopardy.

*Issue(s):* "[W]hether the Court of Appeals erred when it concluded that the jury in the defendant's first trial, when it acquitted him of first- and second-degree murder, necessarily decided an issue of ultimate fact such that the issue-preclusion aspect of the Double Jeopardy Clause bars prosecution for the crime of torture arising out of the same criminal incident."

*Invited Amici:* Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan. Interested persons or groups may request permission.

### **159539**                    **Anthony Hart v State of Michigan** (Leave Granted)

*Nature of Case:* Government immunity.

*Issue(s):* "[W]hether the Court of Appeals erred when it concluded that the plaintiff had failed to allege sufficient facts to state a constitutional-tort claim under the principles outlined in *Canton v Harris*, 489 US 378 (1989), and *Bryan Co Bd of Comm'rs v Brown*, 520 US 397, 409 (1997)."

*Invited Amici:* American Civil Liberties Union of Michigan. Interested persons or groups may request permission